

TESTIMONY - JOBS WITH JUSTICE



COMMISSION ON HISPANIC AFFAIRS

CHA Testimony on Immigrant Workers September 11, 2003

TESTIMONY BY ANTONIO M. GINATTA
EXECUTIVE DIRECTOR, WASHINGTON STATE COMMISSION ON HISPANIC AFFAIRS

Thank you for this opportunity to speak before you. My name is Antonio M. Ginatta, and I am the executive director of the Washington State Commission on Hispanic Affairs. The Commission is tasked by the people of the state of Washington to advise the Governor, the Legislature, and state and local agencies on issues of importance to the Latino community of the state.

I was born in Guayaquil, Ecuador. I am an immigrant, and I am a worker. But I am one of the fortunate ones. I come to you to speak about the other immigrant workers of our state, the Latino farm workers and hotel staff and day laborers. With such limited time, the common advice for this type of testimony is to stick to one or two topics. I wish I could do so, but the problem of unjust and inhumane treatment of our immigrant workers is so pervasive that one or two stories cannot fully paint this terrible picture. I have been at my job but for 18 months, and our files are overflowing on the topic of injustice to our workers.

Some introductory statistics: According to the Bureau of Labor Statistics, the labor force of the United States increased by 6.7 million workers from 1996 to 2000. Of those 6.7 million, 3.2 million (49%) were foreign born. And of those 3.2 million, half were of Latin American origin.

During the 1990s, more than 50% of all new immigrants to the United States came from Latin America and the Caribbean.

Currently, more than 75% of all farmworkers in the United States are Mexican born.

According to the National Immigration Law Center, in New York, foreign born workers account for three of every ten job-related deaths. Latinos have the highest average occupational injury and fatality rate in the US.

Finally, during cherry harvest in Washington, cherry work jumps to almost 18,000 workers in July and August. From September to December, the same cherry industry employs a mere 60 workers on average. These cherry workers are almost all Latinos, almost all foreign born.

Mattawa, Washington: A town of roughly 2500 people, over 90% of whom speak Spanish at home, over 80% undocumented immigrants. These are immigrant worker families. These are families with young children, who need child care during the day, when mom and dad are working in the fields at or close to minimum wage. Without child care, these children would be taken to the fields, where they would be exposed to dangerous machinery or pesticides. So some Latina entrepreneurs in Mattawa, some documented, some not, decided to provide in-home child care through a state-funded program.

At some point, a person made a complaint to DSHS that "illegals" were stealing from the state. The fraud unit at DSHS initiated investigations, which involved several investigators executing searches of the documents of every licensed provider. The investigators noted license plate numbers. They asked for immigration paperwork for everyone in the home, not just the providers, but spouses and family members, and in one

occasion, a visiting friend. DSHS provided an interpreter, one who was widely known around town as an employee of the Immigration and Naturalization Service.

On November 13 of last year, KREM-TV in Spokane reported: "The state's child care system is spending hundreds of millions of federal tax dollars every year on this day care program with reports of fraud putting children at risk from drug dealers, alleged child molesters and illegal aliens."

And this is how the story got spun: Duplicitous illegal aliens, no better than child molesters, doing what they can do to defraud the state. When immigrant parents caring for children have to overcome this perception at the start of the story, you have a taste of what confronts our state's immigrant worker every day.

Wenatchee, WA: A Latino family has lived in Wenatchee for more than eight years. Both parents work, they are respected in the community. Mom even volunteers with the Boy Scouts, where her son is a member of the troop. The catch: mom and dad are undocumented. They bought their Social Security number on the street, like so many of the 8 million undocumented residents in the US. The number was registered to a person who sought unemployment benefits. The unemployment office recognized in its records that someone else was using that number and contacted the Chelan County police. Two weeks ago, mom was arrested and charged with "identity theft," a felony charge. If found guilty, she faces significant jail time, but more likely will simply be deported.

Seattle, WA: Janitors in Seattle are attempting to unionize. The company for which they work has not raised the issue of immigration status in the past, in fact, a significant portion of the work force was undocumented. But as soon as the organizing drive began, Latino workers started getting letters from the company, stating that an "INS audit" had been held and that the workers had been discovered as undocumented. The company regretfully had no choice but to fire those workers.

Issaquah, WA: Immigrant Latina workers are repeatedly sexually harassed by the supervisors at the restaurant company for which they work. One complains to her managers, but no action is taken. She is told by her supervisor that she will be fired if she complains. She is undocumented and must care for her two young children. For a time, she relents.

Each one of these cases, from Mattawa to Issaquah, have taken place in our great state, have taken place in the last 18 months. And there's more: a Latino advocate in Tacoma tells me of a construction firm in town that has an established practice of repeatedly hiring undocumented workers for two weeks, then closing shop and not paying paychecks.

Conservative members of our state legislature respond to the tremendous grit, determination, and sweat of our immigrant workers by: 1) trying to reduce the housing standards for Peruvian and Chilean shepherders in the Yakima Valley; 2) trying to limit new slots on the Basic Health Plan to documented immigrants; 3) attempting to restrict drivers' licenses to documented immigrants; 4) attempting to make legal seasonal workers ineligible for unemployment compensation; 5) trying to refuse prenatal care to undocumented expectant mothers (even though they carry citizen children).

Floral greens workers in Shelton are determined by Mason County Superior Court to be independent contractors. We meet a family of brush pickers near Shelton during our Commission meeting there last November. They are "independent contractors" according to the law, but they buy a harvesting permit from one company, harvest the greens, and sell the greens back to the same company. We calculate what this family of four (all working age) is getting paid for its work. The number is just over \$4 an hour.

If I was forced to boil this problem down to two words, I would propose "fear" and "power". The tremendous, the egregious, the sometimes monstrous treatment of our immigrant workers is a product of the interplay of power and fear. Employers have all the power, and employees all of the fear. Rare is the worker who comes

forward to air her grievances. For every issue the Commission receives at its office, we have no doubt that twenty more go by unreported.

Why come forward when you are sure to be fired as a result? Or worse, deported? Why come forward when your remedies are limited? In the case of Hoffman Plastics, the Supreme Court stated that undocumented workers are ineligible for back pay. So a worker airs a grievance, an unscrupulous employer needs only to “discover” that the worker is undocumented and fire that worker. No back pay would then be available. Why come forward when the press holds you in the same regard as a child molester or rapist? Why come forward when no legal services are available to defend you? Federally funded legal aid can not be used to represent undocumented immigrants. State funding for legal aid is so low that Columbia Legal Services, our state’s main provider of legal services for undocumented workers, must turn away four out of every five persons seeking assistance.

Why come forward at all?

Instead, work quietly, don’t raise your voice, don’t make waves. Make money and send it home, just like the seventy percent of all Latino immigrants (70%) who send money to their families, on average \$200, seven times a year. Send part of the \$6 billion sent annually to Mexico, be part of the third highest source of income for your country, just behind tourism and oil.

If you’re harassed, take it. If you’re injured, don’t go to the doctor. Turn your back on the union, doing so becomes your only protection.

This is the state of immigrant workers in our great state. It’s all happening, right now.

I’ve spent 90% of this testimony on the problem, because the solution is so overwhelmingly simple. Kill the fear. Grant all of our workers the same protections as documented workers. Humanize immigration policy. Provide legal avenues to the discriminated workers. Open the courts, make access to justice a priority. We must open our eyes to the incredible sacrifice of our immigrant workers.

I applaud the courage of all the workers who come before you to testify tonight. I testify in memory of the 15 undocumented immigrant workers who died at Windows on the World two years ago. Thank you for your time.